

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

Oct 13, 2021

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

THOMAS ALEX MORRISON, JR.,

Defendant.

No. 1:21-cr-02032-SMJ-1

**ORDER GRANTING  
DEFENDANT'S UNOPPOSED  
MOTION TO CONTINUE TRIAL  
AND TO SET A NEW PRETRIAL  
CONFERENCE AND RELATED  
TRIAL DEADLINES**

**AMENDED<sup>1</sup> CASE  
MANAGEMENT ORDER**

Before the Court, without oral argument, are Defendant Thomas Alex Morrison Jr.'s Unopposed Motion to Continue Trial and to Set a New Pretrial Conference and Related Trial Deadlines, ECF No. 22, and related Motion to Expedite, ECF No. 24. Defense counsel Paul E. Shelton requests a continuance of the pretrial motions filing deadline, the pretrial conference, and the trial, to allow more time to examine discovery, prepare any related motions, and prepare for trial. Defendant supports counsel's request for a trial continuance for the articulated

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<sup>1</sup>This Order amends and supersedes in part the Court's September 9, 2021 Case Management Order, ECF No. 19.

1 reasons. ECF No. 23.<sup>2</sup> Assistant U.S. Attorney Michael Davis Murphy, appearing  
2 on behalf of the Government does not oppose the request. ECF No. 22 at 1.

3 The Indictment was filed on August 10, 2021. ECF No. 1. Defense counsel  
4 appeared for Defendant on September 1, 2021. ECF No. 12. This is Defendant's  
5 first request for a continuance.

6 To ensure defense counsel is afforded adequate time to review discovery,  
7 prepare any pretrial motions, conduct investigation, and prepare for trial, the Court  
8 grants the motion, extends the pretrial motion deadline, and resets the currently  
9 scheduled pretrial conference and trial dates. The Court finds that Defendant's  
10 continuance request is knowing, intelligent, and voluntary, and that the ends of  
11 justice served by granting a continuance outweigh the best interest of the public and  
12 Defendant in a speedy trial. The delay resulting from Defendant's motion is  
13 therefore excluded under the Speedy Trial Act.

14 Counsel are advised that all second or successive continuance requests will  
15 be closely scrutinized for the necessity of more time to effectively prepare, taking  
16 into account the exercise of due diligence.

17  
18 \_\_\_\_\_  
19 <sup>2</sup> Due to the public health advisories and other restrictions imposed in response to  
20 the COVID-19 pandemic, the Court has permitted counsel to submit Defendant's  
Statement of Reasons in Support of Motion to Continue, ECF No. 23, with  
counsel's certification that Defendant has reviewed the document and consents to  
counsel signing the statement of reasons on his behalf.

Having considered the parties' proposed case schedule and deadlines, the Court now enters the following Amended Case Management Order, which sets forth the deadlines, hearings, and requirements the parties will observe in this matter. To the extent this Order conflicts with any previously entered Orders in this matter, this Order shall govern. All counsel are expected to carefully read and abide by this Order and such provisions of the current CMO which have not been superseded hereby. The Court will grant relief from the requirements in this Order only upon motion and good cause shown.

Accordingly, **IT IS HEREBY ORDERED:**

1. Defendant's Unopposed Motion to Continue Trial and to Set a New Pretrial Conference and Related Trial Deadlines, **ECF No. 22**, and related Motion to Expedite, **ECF No. 24**, are **GRANTED**.
2. The Court finds, given defense counsel's need for time to review discovery, prepare any pretrial motions, conduct investigation, and prepare for trial, that failing to grant a continuance would result in a miscarriage of justice and would deny defense counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. *See* 18 U.S.C. § 3161(h)(7)(B)(i),(iv). The Court, therefore, finds the ends of justice served by granting a

1 continuance in this matter outweigh the best interest of the public and  
2 Defendant in a speedy trial. *See* 18 U.S.C. § 3161(h)(7)(A).

3 **3.** **Original CMO.** Counsel must review the provisions of the original  
4 September 9, 2021 CMO, ECF No. 19, and abide by those procedures  
5 which remain in full force and effect and are incorporated herein  
6 except for the new compliance deadlines in the following Summary of  
7 Amended Deadlines.

8 **4. Pretrial Conference**

9 **A.** The current pretrial conference date of October 19, 2021, is  
10 **STRICKEN** and **RESET to January 19, 2022, at 9:30 A.M.**  
11 in **YAKIMA**. At this hearing, the Court will hear **ALL** pretrial  
12 motions that are noted for oral argument.

13 **B.** All Pretrial Conferences are scheduled to last no more than  
14 **thirty (30) minutes**, with each side allotted **fifteen (15)**  
15 **minutes** to present their own motions and resist motions by  
16 opposing counsel. If any party anticipates requiring longer than  
17 fifteen minutes, that party must notify the Courtroom Deputy at  
18 least seven (7) days prior to the hearing. **Any party who fails**  
19 **to provide this notice will be limited to fifteen (15) minutes.**

1           C. If a case has more than one defendant, the Court will construe  
2           any motion, including motions to continue, as applying to *all*  
3           defendants, unless that defendant indicates they do not wish to  
4           be joined in the motion. **Defendants thus do not need to file**  
5           **motions to join.**

6           D. ***Sealed Documents.*** Any and all sealed documents (i.e. medical  
7           records etc.) shall be filed by the parties under the sealed event  
8           as a sealed document. The parties are not required to file a  
9           separate motion to seal the documents. The parties shall file any  
10          objections to the sealed document(s) by **no later than five days**  
11          after the filing of the sealed document(s).

12          E. If a motion is to be heard with oral argument, and a party plans  
13          to call witnesses or present exhibits, that party must file an  
14          exhibit and/or witness list by no later than **seventy-two hours**  
15          before the hearing on the motion.

16          F. If a party intends to use a laptop, thumb drive, or DVD or CD  
17          for presentation of documents, or audio or video recordings, that  
18          party must contact the Courtroom Deputy at least **two weeks**  
19          prior to the hearing and confirm the compatibility of the  
20          technology and equipment.

1           **G.** If a party intends to use a demonstrative exhibit, such as a  
 2           PowerPoint presentation, it must be submitted to the Court and  
 3           all opposing parties at least **twenty-four hours** prior to its  
 4           intended use.

5       **5.** **Trial.** The current trial date of November 8, 2021, is **STRICKEN** and  
 6           **RESET to February 14, 2022, at 9:00 A.M.** in **YAKIMA**. The **final**  
 7           pretrial conference will begin at **8:30 A.M.**

8       **6.** Pursuant to 18 U.S.C. § 3161(h)(7)(B)(i) and (iv), the Court  
 9           **DECLARES EXCLUDABLE from Speedy Trial Act calculations**  
 10          the period from **October 7, 2021**, the date defense counsel moved to  
 11          continue, through **February 14, 2022**, the new trial date, as the period  
 12          of delay granted for adequate preparation by counsel.

13       **7. Summary of Deadlines**

14           Rule 16 expert summaries produced to other parties and email to Court: USAO's Experts: Defendant's Experts: USAO's Rebuttal Experts:	15 <b>December 22, 2021</b> 16 <b>December 29, 2021</b> 17 <b>January 5, 2022</b>
18           All pretrial motions, including discovery motions, <i>Daubert</i> motions, and motions <i>in limine</i> , filed	19 <b>December 15, 2021</b>
20 <b>PRETRIAL CONFERENCE</b> <b><i>Deadline for motions to continue trial</i></b>	21 <b>January 19, 2022</b> <b>9:30 A.M. - YAKIMA</b>
22           CIs' identities and willingness to be interviewed disclosed to Defendant/s (if applicable)	23 <b>January 31, 2022</b>

Grand jury transcripts produced to Defendant/s Case Agent: CIs: Other Witnesses:	<b>January 31, 2022</b> <b>January 31, 2022</b> <b>January 31, 2022</b>
Exhibit lists filed and emailed to the Court	<b>February 4, 2022</b>
Witness lists filed and emailed to the Court	<b>February 4, 2022</b>
Trial briefs, jury instructions, verdict forms, and requested voir dire filed and emailed to the Court	<b>February 2, 2022</b>
Exhibit binders delivered to all parties and to the Court	<b>February 4, 2022</b>
Delivery of JERS-compatible digital evidence files to the Courtroom Deputy	<b>February 4, 2022</b>
Trial notices filed with the Court	<b>February 4, 2022</b>
Technology readiness meeting (in-person)	<b>February 7, 2022</b>

**FINAL PRETRIAL CONFERENCE**      **February 14, 2022**  
**8:30 A.M. - YAKIMA**

<b>JURY TRIAL</b>	<b>February 14, 2022 9:00 A.M. - YAKIMA</b>
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**IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and provide copies to all counsel, the U.S. Probation Office, and the U.S. Marshals Service.

**DATED** this 13<sup>th</sup> day of October 2021.

Sarah Mendes de Souza

**SALVADOR MENDOZA, JR.**  
United States District Judge